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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Respondent,

No. CR S-98-0114 KJM DAD P

12 vs.

13 D'ANGELO DOMINICO DAVIS

14 Movant.

ORDER

15 _____/

16 This matter came before the court on November 18, 2011, upon respondent's
17 request for a hearing on movant's motion for a stay, motion for access to trial court exhibits,
18 motion for leave to file an amended § 2255 motion, and motion for appointment of counsel.
19 Assistant United States Attorney Todd Leras appeared on behalf of the respondent due to the
20 unavailability Assistant United States Attorney William Wong, who is representing respondent in
21 this action. Edgar Page, Esq. of Page & Page Attorneys at Law appeared on behalf of movant.
22 Upon consideration of the parties' arguments, a review of the record, and in light of the
23 government's stated intention to challenge the timeliness of the § 2255 motion filed in this
24 action, IT IS HEREBY ORDERED that:

25 1. Movant's October 25, 2011 motion for a stay (Doc. No. 268) is denied as
26 unnecessary;

1 2. Movant's October 25, 2011 motion for leave to amend the § 2255 motion
2 (Doc. No. 268) is denied without prejudice to the filing of such a motion in the future supported
3 by a proper memorandum of points and authorities and with a proposed amended § 2255 motion
4 attached thereto;

5 3. Movant's October 25, 2011 motion for access to trial court exhibits (Doc. No.
6 268) is granted with the expectation that respondent will take steps to retrieve those exhibits and
7 make them available for movant's counsel to review at a mutually agreed upon time;

8 4. Movant's October 25, 2011 motion for the appointment of counsel (Doc. No.
9 268) is denied without prejudice; and

10 5. On or before December 9, 2011, respondent shall file a motion to dismiss the
11 pending § 2255 motion or state in writing an intention to forego such a motion; movant's
12 opposition to any motion to dismiss shall be filed on or before January 7, 2012, and respondent's
13 reply shall be filed on or before January 21, 2012. If oral argument in connection with that
14 motion is deemed necessary by the court, a hearing date will be set by separate order.

15 DATED: November 18, 2011.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE